

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
October 6, 2009
5:00 p.m.

CALL TO ORDER

Mayor Nelson called the City Council meeting to order.

Councilmembers Present: Shoop, Mendoza, Beeson, McClendon, Nicholls, Johnson and Mayor Nelson
Councilmembers Absent: none
Staffmembers Present: City Administrator, Mark Watson
CIP Project Manager, Kevin Eatherly
City Attorney, Steve Moore
Director of Community Development, Laurie Lineberry
Director of Parks & Recreation, Becky Chavez
Finance Director, Pat Wicks
Principal Planner, Leslie Zlatev
Economic Development Program Manager, Peter Erlenbach
Neighborhood Services Specialist, Nikki Hoogendoorn
Various department heads or their representatives
City Clerk, Brigitta M. Kuiper

Motion (Beeson/Johnson): To recess to Executive Session. Voice vote: adopted 7-0. The meeting recessed at 5:02 p.m. and reconvened at 5:49 p.m.

I. SUMMARY OF CURRENT EVENTS

Watson informed the City Council that the City's Special Weapons and Tactics (SWAT) Team was called on today; a suspect has been apprehended and the situation is now secure.

II. REGULAR CITY COUNCIL MEETING AGENDA OF OCTOBER 7, 2009

Intergovernmental Agreement and Lease with Arizona State Parks and Operations Agreement with the Yuma Crossing National Heritage Area

Eatherly presented the following key points:

The lease is for three years, with two additional three-year options

- City responsible for operations and maintenance
- No City financial commitment for capital project for roof replacement; State to provide \$250,000

Lease does not constitute an added financial burden to the City

- City had allocated \$150,000-\$175,000 to Arizona State Parks to assist in the operation of the Quartermaster Depot (QMD) since 1997.

- Agreements limit the City's commitment to \$166,000 this year, with the Yuma Crossing Heritage Area (YCNHA) being responsible for any added operational costs.

Operating Agreement with YCNHA

- City limits its annual financial commitment to \$166,000
- YCNHA assumes all responsibilities for operations and maintenance
- YCNHA assumes all obligations of the City's IGA and Lease

How will the QMD operate?

- Free general daily admission 9 a.m. – 5 p.m.
- Yuma Visitors Bureau (YVB) will relocate the Yuma Welcome Center to park's main building for visitor contact
- YCNHA will manage historic resources and promotes programming and special events
- Arrangement will encourage more community events, attracting residents as well as visitors.
- Continue and improve the QMD's as community asset
 - Closing the park would significantly impact the Riverfront redevelopment effort.

Discussion:

McClendon: Will the \$166,000 from the City be used to pay operating expenses? **Eatherly:** The money will be used to operate the park. Currently, operational costs total over \$200,000, so the YCNHA will make up the difference. This arrangement is similar to the arrangement the City had with the State. The City contributed \$175,000 to the State toward the operation of the park.

McClendon: Is this money already allocated in the budget? **Eatherly:** The expenditure has been a line item in the budget since 1997. **McClendon:** What costs are associated with the Visitors Bureau lease? **Eatherly:** did not have this information at this time. The Yuma Visitors Bureau will move into the QMD to keep the park open and man the visitor's center, allowing the part-time Ranger to be mobile. **McClendon:** Who will pay the other half of the Ranger's salary? **Eatherly:** Arizona State Parks.

Concerning YVB's current lease, **Watson** stated that Best Western and YVB have come to an agreement that they can separate themselves from this lease in another year, allowing the administrative offices and the tourism center to be consolidated into one place.

McClendon stated she had received emails concerning the use of 2% Hospitality Taxes to maintain the park. **Eatherly:** The City's expenditures to operate the park since 1997 have been from 2% tax revenues and the \$166,000 to be expended next year will also come from 2% tax money. In addition, YVB receives 2% tax funding, so this should reduce their operating costs, allowing them to provide more services.

Nicholls: The Park Ranger is a State employee? **Eatherly:** Correct. One of the benefits of the agreement is that State Parks still has a presence; the park is still part of the Arizona State Parks system. The City takes on a three-year commitment and, if and when the State's budget recovers, State Parks can return to operating the park without having to undo anything. **Nicholls:** Will the state cover items such as insurance? **Eatherly:** The City's policy will be in affect for the area; however, the state bears some liabilities. **Nicholls:** The original agreement stated that it was not transferrable. **Moore:** The negotiations have been between YCNHA and the State; the State is fully aware of the situation

and intends to attach this agreement to the original. There are two agreements: one between the City and YCNHA and one between the City and Arizona State Parks. For all practical purposes, the negotiations were between YCNHA and the State; these two parties developed the agreements. The verbiage of the original agreement actually prohibits transference without written consent; written consent has been obtained.

Mayor Nelson mentioned Payson's attempt to keep its park open. **Eatherly**: Arizona State Parks is working with several communities to keep parks open. Payson has asked to use our agreement as a model.

McClendon: What will happen to YVB when the State takes over the park's operations again?

Eatherly: Their location in the park will be open to negotiations.

Saguaro Subdivision #2 Final Plat

Nicholls: Is the applicant apprised of the additional conditions (6, 7 & 8) that were not contained in the report? **Lineberry**: Yes, and there were no issues.

Agenda Item B17: Agreement with Yuma Aquatics, Inc., dba Yuma Heat

Chavez stated that, in an effort to continue to cut the Parks and Recreation Department's budget, staff looked for programs that cost the most to provide, but are the least used. The winter swim program at Marcus Pool served an average of 130 participants daily: an average of 75 members daily from the Yuma HEAT swim team for a 6-month period from November to April; and, an average of 55 adults daily using the pool for recreational purposes.

Briefing highlights:

Background Information

- Carver Pool – 80,000 gallons = \$56,000
- Marcus Pool – 240,000 gallons = \$94,000
- Estimated Revenue for Winter Swim Program = \$12,500

The boiler has failed at Marcus Pool. The City had planned to offer Carver Pool to the Yuma Heat for their winter swim program, decreasing operating costs to \$56,000. Yuma HEAT proposed to the City that their organization operate Marcus Pool this winter for roughly the same cost the City would have paid to operate Carver Pool.

Terms of the Agreement

- Yuma Heat Responsibilities
 - Operate Marcus Pool for Public Swim and Yuma Heat Programs from October 1, 2009 through April 30, 2010
 - Hire all staff to run programs
 - Pay all utility costs associated with operating pool
 - Provide daily janitorial upkeep
 - Make minor repairs for building issues

- Offer all Parks and Recreational annual winter programs, revenues generated to remain with Yuma Heat
- City of Yuma Responsibilities
 - Cost and maintenance of safe chemistry in Marcus Pool
 - Make major repairs to pool mechanical systems – repair the boilers (\$18,000)
 - Register participants for swim programs
 - Invoice Yuma Heat for utilities
 - \$60,000 to support operating costs - \$4,000 above what it would cost the City to run Carver
 - Additional subsidy for Water Exercise Training (W.E.T.) and Adaptive Swim Programs to keep program costs affordable
 - Staff resources to register programs and reimburse fees
- Benefits
 - Partnership approach to keep larger pool open in winter
 - Additional programming will be offered
 - Opportunity to explore future partnerships to lower financial impact to broader tax base
 - The City gets a \$94,000 pool for \$60,000 in operating costs.
- What's Next?
 - Yuma Aquatics, Inc. dba Yuma Heat will operate Marcus Pool for the winter swim programs starting on Monday, 10-12-09
 - Pool boilers have been turned on to adjust for colder temperatures
 - Registration for programs can occur on-line via the City website, in-person at Parks and Recreation, or by cash for daily use fees at Marcus Pool

Discussion

Johnson: in the past, the City offered a season pass in the winter – is this still available? **Chavez:** the three-month pass is available for the Water Exercise Training and Adaptive Aquatics programs.

Resolution R2009-74: Identity Theft Prevention Program

Wicks presented the following on the Red Flag Rules Identity Theft Prevention Program that has been developed by the Federal Trade Commission:

- What are the Red Flag Rules?
 - Regulations and guidelines for Detection, Prevention and Mitigation of Identity Theft
 - These regulations require financial institutions and creditors with covered accounts to develop and administer written identity theft programs
 - Established by Fair and Accurate Credit Transactions Act (FACTA) in 2003 in response to growing threat of identity theft
- Why do we need a Red Flag program?
 - To identify, detect and respond to patterns, practices or specific activities that could indicate identity theft
- When do we have to do this?
 - Original deadline: November 2, 2008; extended deadline: November 1, 2009
- Who is required to participate?
 - Financial institutions
 - Entities that hold a “transaction account” belonging to a customer
 - Creditors that have “covered accounts”

- Entities that regularly extend, renew or continue credit
- Finance companies
- Automobile dealers
- Mortgage brokers
- Utility companies
- Telecommunications companies
- What are covered accounts?
 - Consumer accounts that permit multiple payments or transactions
 - Credit card accounts
 - Mortgage loans
 - Automobile loans
 - Cell phone accounts
 - Utility accounts
 - Checking and savings accounts
 - Accounts for which there is a foreseeable risk of identity theft; i.e. small business or sole proprietorship accounts
- Program Requirements
 - Develop a written Red Flag program containing:
 - Procedures to identify Red Flags
 - Procedures to detect Red Flags
 - Responses to Red Flags
 - Procedures to update the program
 - Reporting
- What are Red Flags?
 - Relevant indicators of a possible risk to identity theft
 - Notifications and warnings from credit reporting agencies
 - Suspicious documents
 - Suspicious personal identifying information
 - Suspicious account activity or use of account
 - Alerts from Others
- Notifications and Warnings from Credit Reporting Agencies
 - Report of fraud accompanying a credit report;
 - Notice or report from a credit agency of a credit freeze on a customer or applicant;
 - Notice or report from a credit agency of an active duty alert for an applicant; and
 - Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- Suspicious Documents
 - Identification document or card that appears to be forged or altered;
 - Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
 - Other document with information that is not consistent with existing customer information (such as a person's signature on a check appears forged); and
 - Application for service that appears to have been altered or forged
 - Suspicious Personal Identifying Information
 - Information that is inconsistent with other sources (for instance, an address not matching an address on a driver's license)
 - Information that matches other fraudulent applications

- Social security number matches another customer's
- An address or phone number presented that is the same as that of another person
- Failing to provide complete personal identifying information on an application when reminded to do so (but social security numbers cannot be required)
- Identifying information which is not consistent with the information that is on file for the customer.
- Suspicious Account Activity or Unusual Use of Account
 - Change of address for an account followed by a request to change the account holder's name
 - Payments stop on an otherwise consistently up-to-date account
 - Account used in a way that is not consistent with prior use (such as very high activity)
 - Mail sent to the account holder is repeatedly returned as undeliverable
 - Breach in the City's computer system security
- Alerts from Others
 - Report from a customer
 - Report from a victim of identity theft involving a customer account
 - Notice from a law enforcement agency
- Detecting Red Flags
 - New accounts
 - Require identifying information on application
 - Verify customer identity (driver license or other ID)
 - Existing Accounts
 - Verify identity of customer if they request information
 - Verify changes in billing address
 - Verify banking information given
- Preventing and Mitigating Identity Theft
 - Respond appropriately to any Red Flags that are detected to prevent and mitigate identity theft
 - Monitor the account
 - Contact the customer
 - Not open a new account or close an old account
 - Notify the Finance Director
 - Notify law enforcement – if appropriate to the issue
 - Determine no response is warranted
- Protect Customer Identifying Information
 - To prevent the likelihood of identity theft
 - Secure the City's website
 - Keep offices clear of identifying information
 - Keep only the information necessary to City's business purposes
 - Control access to identifying information
- Penalties for Non-compliance
 - Federal Court Penalties of up to \$2,500 per violation
 - Per day for non-compliance
 - Per incident of identity theft if no formal program is in place
 - Civil litigation for losses as a result of identity theft

Ordinance O2009-54: Zoning Code Text Amendment for Design and Historic Review Commission merger

Zlatev presented the following information regarding the proposed merger:

- Merge the Design Review Commission (DRC) with the Historic District Review Commission (HDRC); forming a single commission that would encompass the duties and responsibilities held by the two current commissions.
- New commission name: Design and Historic Review Commission (DHRC).
- The merging will:
 - Improve the functionality
 - Streamline business
 - Improve staff availability to schedule commission meeting time more efficiently
 - Improve the implementation of design and processes throughout the City.
- A consolidation was previously explored in a slightly different organizational format.
 - The consolidation was deemed inappropriate at that time - due to case load sizes during that year.
- Due to economic slow down and decrease in the submission of design activity merging at this time is more feasible.
- The new commission, DHRC, will meet twice a month.
- There will be 9 members initially,
 - Through attrition this will reduce down to a 7-member commission.
- Proposed text changes include:
 - Commission duties
 - Review of the design and historic sites and projects for conformance with the adopted design guideline of the historic district aesthetic overlay, old town or special design projects.
 - Make recommendations for changes to the design guidelines or reviewing procedures
 - To be the official body for promotion and protection of the architectural and historic integrity of the City of Yuma within defined geographical boundaries of the aesthetic overlay district and the historic districts of Yuma.
 - To reflect minor aesthetic changes within the aesthetic overlay, which can be refuted and decided as acceptable or inappropriate by the Zoning Administrator or their designee.
 - These include changes that do not substantially change the visual appearance of the project as previously approved by the commission.
 - The commission will be so advised of administrative changes at the subsequent regularly scheduled commission meeting.
 - Minor design changes include the following: Slight color pallet changes, Exterior wall or fence alterations, Minor material changes and insignificant signage material and color change.
 - This additional text aesthetic overlay duties is consistent with the process that the current commission already employs.
 - These administrator reviews are only pertaining to structures that are not individually listed currently in the national registry of historic places.
 - DHRC will commence as a single commission beginning December 2009.

Discussion

Beeson: Will the DHRC meetings be televised? **Zlatev:** it is being discussed but has not been decided as of date. It was televised in the past and concluded approximately two years ago.

Watson congratulated Zlatev as the Principal Planner for the City of Yuma Association for the Bicycle Plan which received an award from the Arizona Planners.

Johnson stated that the property associated with R2009-75 did not have the standard water conversion in the agreement. They are in the Yuma County Water Users Association, where we have the agreement in place. **Erlenbach** stated he will work with Jim Davey to make sure that is done.

Johnson: this parcel is more than two acres, but is being zoned SR-1; would that permit a future lot split? **Erlenbach:** It is already split.

Nicholls stated that he will recuse himself from action of R2009-79.

Nicholls: Does the Chamber of Commerce usually attend the Legislative Summit? **Moore:** yes, the City of Yuma, County of Yuma and Chamber of Commerce usually attend. The Chamber of Commerce is choosing not to attend this year. **Beeson:** Has the County also backed out? **Moore:** No. The Board of Supervisors, Mr. Pickels, and the County Attorney, Jon Smith, will be attending.

III. AMENDMENT TO CONSOLIDATED PLAN

Hoogendoorn briefed City Council on the 2009 Proposed Amendment to the Community Development block Grant (CDBG) Program, 2007-2010 Consolidated Plan for Fiscal Year 2009-2010:

- CDBG Program
 - Governed by laws, rules, statutes and Title 24 of the Department of Housing and Urban Development Code of Federal Regulations
 - Local program compliance is defined in the City's adopted Citizen Participation Plan
- Conditions that require an amendment per City of Yuma CDBG Citizen Participation Plan
 - Creation of a new activity
 - Increase or decrease in activity budget greater than 20% of budget amount submitted to HUD
 - Change in location of activity by more than ¼ mile radius from the location submitted to HUD
 - Even though it is not required by HUD, Neighborhood Services requests approval by City Council of all changes in CDBG activities previously approved by Council
- Possible sources of funds for new activities or additions to existing activities
 - Activities completed under budget
 - Cancelled activities
 - Program income
- Possible uses of available or idle funds
 - New eligible activities
 - Additional funds for existing activities
 - Additional funds for activities that are over budget (within 20%)
 - Prior Council approval would be needed to add funds to an existing activity before it exceeded 20% of original budget amount

Hoogendoorn outlined \$441,518.66 in unused funds from prior activities and proposed a like amount in new projects, which constitutes the proposed amendment. Funds must be expended so that the program is not in possession of more than 1.5 times the City's entitlement at any given time. Funds that have remained unused for the longest amount of time are programmed into new projects.

- Amendment Process
 - The proposed amendment will be published in *The Sun* and the *Bajo el Sol* on 10/9/09
 - A 30-day public comment period will follow publication.
 - Council approval by motion will be requested by staff at the regular Council Session of November 18, 2009.

Discussion

Shoop: Are any of the CDBG loans in arrears? **Hoogendoorn:** Monarch's Rest filed bankruptcy and a judgment has been filed against the owners. Main Street Cinema's loan is still in default. **Shoop:** Are any loan repayments being received from the San Carlos Hotel? **Hoogendoorn:** The loan agreement states that when the hotel is fully occupied and money is being received, the owners will begin paying on the loan. The first payment is anticipated to be received in 2021. **Moore:** The San Carlos contract is complex; the original payment of \$150,000 was due based on a time period and occupancy limit, which arguably have been reached. However, the remainder of the loan payment is not due as of date. **Shoop:** This amendment is the recycling of allocated funds that, for whatever reasons, have not been used. Weren't there others in arrears? **Hoogendoorn** reiterated that the City is acting to collect from Monarch's Rest and Main Street Cinemas.

Beeson asked why money remains from the Bocca Courts project. **Hoogendoorn:** This project was completed under budget. It was constructed at Carver Park jointly with the Special Olympics. The funding provided two courts, instead of three. **Beeson:** Could CDBG funding be used to maintain the courts? **Hoogendoorn:** CDBG funding cannot be used for the maintenance of public facilities, per federal guidelines, unless the facilities offer a public service covered by the CDBG program. Using CDBG funding in this manner, however, affects the program's public service cap. The City can spend only 15% of its CDBG allocation on public services.

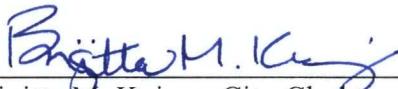
IV. CITY OF YUMA BOARDS, COMMISSIONS AND COMMITTEES

Mayor Nelson announced several vacancies will be filled at the Regular City Council Meeting on October 7, 2009.

V. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION - NONE

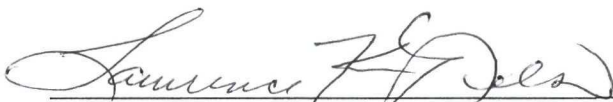
VI. ADJOURNMENT/EXECUTIVE SESSION

Motion (Shoop/Beeson): To adjourn the meeting to Executive Session at 6:53 p.m. Voice vote: 7-0 adopted.



Brigitta M. Kuiper, City Clerk

APPROVED:



Lawrence K. Nelson, Mayor

